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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,137	10/28/2003	Larry E. Hawker	555255012611	6439
24325	7590	10/03/2008	EXAMINER	
PATENT GROUP 2N JONES DAY NORTH POINT 901 LAKESIDE AVENUE CLEVELAND, OH 44114			PAUL, DISLER	
ART UNIT	PAPER NUMBER		2615	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/695,137	<b>Applicant(s)</b> HAWKER ET AL.
	<b>Examiner</b> DISLER PAUL	<b>Art Unit</b> 2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 July 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 25-26; 29-34; 37-40 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 25-26; 29-34; 37-40 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/136/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed wherein "the safe volume profile providing a default volume setting selected to reduce risk of damage to a user's hearing" have been fully considered but they are not persuasive. Please, Note Karft does indeed disclose of the specific wherein the Karft does disclose of the specific wherein "the safe volume profile providing a default volume setting selected" and inherently of reducing the risk of damage to a user's hearing" (par [0010, Table-1;0032; 0020]/volume with predetermined by user level of normal and hand's free and thus it is inherent of such prevention of damaging of user's hearing).

Futhermore, in regard to the "Official notice", which the applicant's had traverse, the examiner has include the Cook's reference, with having disclosed the limitation.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 25, 30-31, 33, 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Cook (US 6,434,407 B1).

Re claim 25, Kraft disclose of the method of processing a voice call at a mobile device, comprising: storing a predetermined volume profile (it is inherent that such volumes being set are generally safe for users) are at the mobile device associated with a handsfree mode of operation, the safe volume profile providing a default volume setting selected and the inherency to reduce the risk of damage to a user's hearing if the mobile device is operated in close proximity to the user's ear while in the handsfree mode of operation (page 3[0036, 0032; 0022,0037]/; fig. 1-2, table 1-user may in addition to default mode choose others with selected volume setting may be selected & table 1 and & further see page 3[0037] / to protect the user's hearing); answering an incoming call with the mobile device in the handset mode of operation according to a regular volume profile that is lower than the default volume setting of the safe volume profile (table 1, fig.2/the user may either manually or automatically select mode with volume setting other than default); switching the mobile device from the first selected operational mode from the handset mode of operation to the handsfree mode of operation while processing the incoming call (page 1[0005]/mode may selectively switch by user according to user preference and parameter & further see fig.2;) ; and operating the mobile device in the handsfree mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (in the sound safe volume as per user mode setting ; par [0022, 0015], table 1/phone with user volume setting may be selected by user).

While, Kraft disclose of the above with the selecting of mode of operation with different volume setting level for operation with the one speaker for operating the different modes (see above and fig.1 wt (20)), However, Kraft fail to disclose of the specific wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker. But, Cook disclose of a system wherein such limitation speakers for different mode of operation and specifically wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker ( fig.1 wt (105,125); col.1 line 53-60; col.2 line 19-23 & line 37-41; & line 50-57; col.3 lien 34-40; col.1 line 10-14) for purpose of generating loud/audible signals without causing damage to the user's ear. Thus, taking the combined teaching of Karft and Cole as a whole, it would have been obvious for one of the ordinary skill in the art to have modified Kraft with the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of

generating a larger acoustic output signal than the first speaker for purpose of generating loud/audible signals without causing damage to the user's ear.

Re claim 33, Kraft disclose of the mobile device, comprising :a memory for storing a volume profile (it is inherent of the volume is safe for user ) associated with a handsfree mode of operation (fig. 1 (10)), the safe volume profile providing a default volume setting selected and inherently to reduce the risk of damage to a user's hearing if the mobile device is operated in close proximity to the user's ear while in the handsfree mode of operation (page 1[0005,0010])control parameters with selected volume setting may be selected & table 1 and & further see page 3[0037] / volume setting for handsfree mode and further see (fig.1-2), table 1 where user mode selecting with volume setting may be operated);a transceiver for receiving and answering an incoming call (fig. 1-2/phones); a mode control system for selecting the handset mode of operation to process the incoming call! , the handset mode of operation having an associated regular volume profile that is lower than the default volume setting of the safe volume profile (fig.1 ;11 & page 3[0026]), the mode control system further comprising means for switching the .mobile device from the handset mode of operation to the handsfree mode of operation while processing the incoming call and means for operating the mobile device in the handsfree mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (page 2. table 1-3; page 1[001]], user setting volume with parameters for changing in between mode and (see claim 25 rejection ).

While, Kraft disclose of the above with the selecting of mode of operation with different volume setting level for operation with the one speaker for operating the different modes (see above and fig.1 wt (20)), However, Kraft fail to disclose of the specific wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker. But, Cook disclose of a system wherein such limitation speakers for different mode of operation and specifically wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker (fig.1 wt (105,125); col.1 line 53-60; col.2 line 19-23 & line 37-41; & line 50-57; col.3 line 34-40; col.1 line 10-14) for purpose of generating loud/audible signals without causing damage to the user's ear. Thus, taking the combined teaching of Kartt and Cole as a whole, it would have been obvious for one of the ordinary skill in the art to have modified Kraft with the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of

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generating a larger acoustic output signal than the first speaker for purpose of generating loud/audible signals without causing damage to the user's ear.

Re claim 30, the method of claim 25, further comprising: switching the mobile device from the handsfree mode of operation back to the handset mode of operation while processing the incoming call; and operating the mobile device in the handset mode of operation according to the regular volume profile (page 110010];/mode may be changed with user preselected modes)

Re claim 31, the method of Claim 25, further comprising: prior to answering the incoming call with the mobile device, enabling a notification on the mobile device indicating the receiving of the incoming call (page 2[table 1], [0016]).

Re claims 38-39 have been analyzed and rejected with respect to claims 30-31 respectively.

4. Claims 29, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Cook (US 6,434,407 B1) and further in view of Schmidt (US 6,522,894 B1).

Re claim 29, the method of claim 25, But, the combined teaching of Kraft and Cook as a whole, fail to further disclose of the comprising: defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation. However, Schmidt disclose a phone with mode of operation wherein the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation (co1.6 line 45-55) for providing control volume with the operating mode. Thus, taking the combined teaching of Kraft and Cook and now Schmidt as a whole, it would have been obvious for one of the ordinary skill in the art to modify the combined teaching Kraft and Cook as a whole, by incorporating the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation for providing control volume with the operating mode

Re claim 37, has been analyzed and rejected with respect to claim 29.

5. Claims 26, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Cook (US 6,434,407 B1) and further in view of Shimizu et al. (US 2002/0031236 A1").

Re claim 26, the method of claim 25 with switch between modes, However, the combined teaching of Kraft and Cook as a whole, fail to disclose of the further comprising disabling adjustment of the volume level from the default volume setting of the safe volume profile for a predetermined time period after the user has switched the mobile device from handset mode of operation to the handsfree mode of operation. But, shimizu et al. did disclose of the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user with rotation (page 7[0069]) for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably. Thus, taking the combined teaching of Kraft and Cook and now Shimizu as a whole, it would have been obvious for one of the ordinary skill in the art to modify the combined teaching of Kraft and Cook as a whole, by incorporating the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably.

Re claims 34, have been analyzed and rejected with respect to claim 26 above.

6. Claims 32, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al.(US 2002/0107009 A1) and Cook (US 6,434,407 B1).

Re claim 32, the method of claim 31, further comprising: determining whether to answer the incoming call in response to the notification and diverting calls when not answered (table 1 and page 210016]), But, the combined teaching of Kraft and Cook as a whole, fail to disclose of the specific determining whether to redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered. However, official notice is taken that the limitation of redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the art to modify the combined teaching of Kraft and cook as whole, by incorporating the redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered enabling the phone user to hear miscall messages over the mobile phone.

Similarly Re claim 40 , has been analyzed and rejected with respect to claim 32.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DISLER PAUL whose telephone number is (571)270-1187. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. P./  
Examiner, Art Unit 2615

/Vivian Chin/  
Supervisory Patent Examiner, Art Unit 2615